

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE:        David A. Stephens                                )  
              Parcel ID #082JG-001                            ) Knox County  
              Parcel ID #082JR-017                            )  
              Tax Year 2007                                    )

**INITIAL DECISION AND ORDER**

**Statement of the Case**

The subject property is presently valued as follows:

**Parcel 001**

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$5,300	\$64,900	\$70,200	\$17,550

**Parcel 017**

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$5,000	\$60,300	\$65,300	\$16,325

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on March 26, 2008 in Knoxville, Tennessee. In attendance at the hearing were David A. Stephens, the appellant, and Knox County Property Assessor's representative Ralph E. Watson, Chief Deputy Assessor.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Parcel 001 consists of a residence with two rental units located at 620 N. Chestnut in Knoxville. Parcel 017 consists of a single family residence utilized for rental purposes located at 2443 Jefferson Avenue in Knoxville.

The taxpayer contended that parcels 001 and 017 should be appraised at \$25,000 each. In support of this position, Mr. Stephens testified that he purchased both properties on April 12, 2007 for \$25,000.<sup>1</sup> Mr. Stephens stated that the properties were listed with a realtor and in his opinion the purchase prices reflected the fair market value of the homes.

The assessor contended that parcels 001 and 017 should remain valued at \$70,200 and \$65,300 respectively. In support of this position, Mr. Watson testified concerning several sales of homes in the immediate area for \$70,250-\$88,500.<sup>2</sup> In addition, Mr. Watson argued that Mr. Stephens' purchases involved sales out of foreclosure and were not

<sup>1</sup> It appears from the file that one of the homes may have been purchased in February of 2007. The administrative judge finds it immaterial which date is correct insofar as both sales occurred after January 1, 2007, the relevant assessment date.

<sup>2</sup> Mr. Watson conceded that the home located at 2501 Jefferson Avenue which sold for \$88,500 is superior to the subject properties.



indicative of market value. Finally, Mr. Watson asserted that parcel 017 should be subclassified commercially because it contains two rental units.

The threshold issue before the administrative judge concerns jurisdiction. This issue arises from the fact the disputed appraisals were not appealed to the Knox County Board of Equalization.

The administrative judge finds that Tennessee law requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing to the State Board of Equalization. Tenn. Code Ann. §§ 67-5-1401 & 67-5-1412(b). A direct appeal to the State Board is permitted only if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. Tenn. Code Ann. §§ 67-5-508(a)(3) & 67-5-903(c). Nevertheless, the legislature has also provided that:

The taxpayer shall have right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the [state] board shall accept such appeal from the taxpayer up to March 1 of the year subsequent to the year in which the assessment was made.

Tenn. Code Ann. § 67-5-1412(e). The Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of them. It was not the intent of the 'reasonable cause' provisions to waive these requirements except where the failure to meet them is due to illness or other circumstances beyond the taxpayer's control.

*Associated Pipeline Contractors, Inc.*, Williamson County, Tax Year 1992, Assessment Appeals Commission (Aug. 11, 1994). *See also John Orovets*, Cheatham County, Tax Year 1991, Assessment Appeals Commission (Dec. 3, 1993). Thus, for the State Board of Equalization to have jurisdiction in this appeal, the taxpayer must show that circumstances beyond his control prevented him from appealing to the Knox County Board of Equalization.

Mr. Stephens testified that he first became aware of the disputed appraisals when he received the tax bills issued on or about October 1, 2007. According to Mr. Stephens, he filed a direct appeal with the State Board of Equalization after the assessor's office advised him the Knox County Board of Equalization had already adjourned for tax year 2007.

Respectfully, the administrative judge finds Mr. Stephens failed to establish that he was prevented from appealing to the Knox County Board of Equalization due to a circumstance beyond his control. The administrative judge finds that Knox County was last reappraised in 2005. Consequently, the present situation is not one wherein a post-



assessment date buyer did not receive an assessment change notice because it was sent to the owner of record as of January 1 of the tax year.<sup>3</sup> Indeed, no assessment change notice was even issued for tax year 2007 because the appraised values did not change. See Tenn. Code Ann. § 67-5-508(a)(3). Ironically, the administrative judge finds that Mr. Stephens presumably had effective notice when the real estate taxes were prorated at closing.

The administrative judge finds that even if the State Board of Equalization had jurisdiction, no reduction in value would be warranted absent additional evidence. Moreover, the administrative judge would reclassify parcel 001 to commercial property which carries a higher assessment level.<sup>4</sup> See Tenn. Code Ann. § 67-5-501(4) which provides that “[a]ll real property that is used, or held for use, for dwelling purposes that contains two (2) or more rental units is hereby defined and shall be classified as ‘industrial and commercial property.’” See also Tenn. Code Ann. § 67-5-501(10).

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that “[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . .”

Since the taxpayer is appealing from the determination of the Knox County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that Mr. Stephens’ purchase prices do not necessarily establish market value. As observed by the Arkansas Supreme Court in *Tuthill v. Arkansas County Equalization Board*, 797, S. W. 2d 439, 441 (Ark. 1990):

Certainly, the current purchase price is an important criterion of market value, but it alone does not conclusively determine the market value. An unwary purchaser might pay more than market value for a piece of property, or a real bargain hunter might purchase a piece of property solely because he is getting it for less than market value, and one such isolated sale does not establish market value.

The administrative judge finds that the sales introduced by Mr. Watson indicate a significantly higher range of value for homes in the immediate area. Furthermore, the administrative judge finds that the State Board of Equalization has historically rejected foreclosure sales as being indicative of market value. See, e.g., *Richard F. Laroche* (Assessment Appeals Commission, Rutherford Co., Tax Year 1994). Finally, the sales occurred after January 1, 2007, the relevant assessment date pursuant to Tenn. Code Ann. §

<sup>3</sup> The Assessment Appeals Commission has found reasonable cause in such situations.

<sup>4</sup> Tenn. Code Ann. § 67-5-501(a) provides for a 25% assessment level for residential property and 40% for commercial property.



67-5-504(a), and are technically not even relevant. See *Acme Boot Company and Ashland City Industrial Corporation* (Cheatham County - Tax Year 1989) wherein the Assessment Appeals Commission ruled that “[e]vents occurring after [the assessment] date are not relevant unless offered for the limited purpose of showing that assumptions reasonably made on or before the assessment date have been borne out by subsequent events.” Final Decision and Order at 3.

ORDER

It is therefore ORDERED that these appeals be dismissed for lack of jurisdiction and the following values and assessments remain in effect for tax year 2007:

<u>Parcel 001</u>			
<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$5,300	\$64,900	\$70,200	\$17,550

<u>Parcel 017</u>			
<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$5,000	\$60,300	\$65,300	\$16,325

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

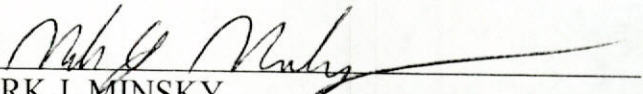
1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or



3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 1st day of April, 2008.

  
MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. David A. Stephens  
John R. Whitehead, Assessor of Property